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COMMISSION ON HUMAN RIGHTS

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SUMMARY RECORD OF THE 48th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 2 March 1993, at 3 p.m.

Chairman: Mr. ENNACEUR (Tunisia)

later: Mr. GARRETÓN (Chile)

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at this session will be consolidated in a single corrigendum, to be issued
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The meeting was called to order at 3.10 p.m.

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT
RACISM AND RACIAL DISCRIMINATION (agenda item 16) (continued)
(E/CN.4/1993/L.20/Rev.1 and L.29)

Draft resolution E/CN.4/1993/L.20/Rev.1

1. Mr. PACE (Secretary of the Commission) said there were two changes to be made to the draft resolution: in operative paragraph 7, the words "minority and" should be deleted while, in operative paragraph 8, the words "to ratify" should be replaced by the words "to consider ratifying".
2. In the Spanish version of the draft resolution, the words "otros tipos análogos" in the title and in the body of the text should be replaced by the words "las formas conexas".
3. Mr. SEZGIN (Observer for Turkey), introducing the draft resolution, said that it was based on an initiative originally taken by the Sub-Commission. Its text was the result of the joint collaboration of a number of delegations from various regional groups.
4. The United Nations human rights system had a definite gap in its machinery for combating racism and the violent manifestations of that phenomenon. The adoption of the draft resolution, which called for the appointment of a thematic special rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance, would fill that gap and constitute a decisive step in the fight against those evils.
5. Mr. LARSEN (Observer for Denmark), speaking in explanation of vote before the vote on behalf of the European Community and its member States, said that the Community had always been vehemently opposed to all forms of racism and racial discrimination and had lost no opportunity to condemn those odious practices. Racism was not limited to one particular region of the world; it was a global phenomenon. Nor was it new. At its root was intolerance.
6. As racism and racial discrimination had not been eliminated, there was an urgent need for further effective action by the United Nations in that field. For that reason, the Community supported the establishment of a thematic special rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance as a constructive step towards combating those phenomena. The mandate of such a rapporteur should not be limited in space or in time, but should be broad and general, reflecting the regrettable fact that racism and xenophobia were global and continuing scourges. By addressing those problems, the Commission was making an important distinction between racism and racial discrimination as institutionalized governmental policy and the various manifestations of racism, xenophobia and intolerance that took place within society.

7. On 23 February 1993, the States members of the European Community had tabled draft resolution E/CN.4/1993/L.29 entitled "Measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance". However, with a view to reaching a consensus on their primary goal, they had decided to participate actively in the negotiations based on the Sub-Commission's draft, which had culminated in the compromise text contained in draft resolution E/CN.4/1993/L.20/Rev.1. In the circumstances, they had decided to withdraw their own draft resolution and to go along with the adoption without a vote of the compromise draft resolution.

8. Mr. DESSER (Austria) said that his country had always been strongly opposed to all forms of racism and racial discrimination, including those distressing forms of racial discrimination, xenophobia and intolerance that occurred in some countries despite official policy. His Government rejected those attitudes, condemned their terrible effects and would continue to do its utmost to prevent such phenomena from taking root anywhere, but especially in Austria. All such attacks must be condemned, whether directed against minorities, migrants, asylum seekers, indigenous persons or anyone at all of a different race, colour, descent, national or ethnic origin, language or religion.

9. It was urgently important that the Commission should take action, and his delegation thus supported the draft resolution.

10. Mr. Garretón (Chile) took the Chair.

11. Mr. PACE (Secretary of the Commission) said that the delegations of Australia, Brazil, Canada, Chile, Colombia, Cuba, Malaysia, Mexico, Pakistan and Tunisia and the observer for Norway had joined the sponsors of the draft resolution.

12. As for the financial implications of the draft resolution, which would be circulated as document E/CN.4/1993/L.58, he said that the total cost of implementing the mandate contained in operative paragraphs 10, 11 and 12 was estimated at US\$ 742,400.

13. The CHAIRMAN said that, if he heard no objection, he would take it that the Commission wished to adopt the draft resolution without a vote.

14. It was so decided.

15. Mr. YAMAZAKI (Japan), speaking in explanation of vote, said that his Government's position on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families remained unchanged.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(agenda item 12) (continued) (E/CN.4/1993/7, 36-40, 41 and Add.1, 42-49, 75, 76, 79, 82, 86, 95, 99 and 102; E/CN.4/1993/NGO/6, 8, 12, 16, 23, 26-28, 31 and 38; E/CN.4/1992/29, 30 and Add.1, 32-34, 50 and Add.1 and 51; A/47/240, 367 and Add.1, 596, 617, 621, 625 and Corr.1, 651 and 656)

16. Mr. YOKOTA (Special Rapporteur on the situation of human rights in Myanmar), introducing his report (E/CN.4/1993/37), said that it marked the first time that the situation of human rights in Myanmar had been taken up under a public procedure by the Commission. At the invitation of the Government of Myanmar, he had visited that country from 7 to 14 December 1992, later visiting Bangladesh for the purpose of acquiring written and oral evidence from Myanmar Muslim refugees from Rakhine state. From 17 to 19 December, he had visited Myanmar ethnic minorities in Thailand to ascertain the situation of human rights within Myanmar for those ethnic minorities.

17. However, "full and unreserved cooperation" as required by Commission resolution 1992/58, operative paragraph 4, had not been forthcoming. Many persons and groups, including non-governmental organizations, wishing to approach him to provide information relevant to his mandate had been prevented from doing so by intimidation and threats. He had not been allowed to see a number of persons he had wished to contact, including all the political leaders still under detention, notably the Nobel Peace Prize laureate, Daw Aung San Suu Kyi.

18. The report was based on information provided by Government authorities, intergovernmental organizations, non-governmental organizations and individuals from Myanmar. The amount of information received had been copious. Apart from a small amount of written information that could not be independently verified, the testimony compiled had been consistent in demonstrating a pattern of grave violations of human rights in Myanmar.

19. With regard to restrictions on personal freedoms, including freedom of expression, freedom to receive and impart information and the right to peaceful assembly, the testimony received indicated that violations had occurred primarily as a result of attempts by citizens to participate freely in the political process and the transition to a democratically elected civilian Government (para. 227).

20. Concerning the right to physical integrity, he had received numerous reports of detention without minimum guarantees, torture, ill-treatment, rape, disappearances and arbitrary executions allegedly carried out by the Myanmar authorities (primarily in connection with attempts by citizens to participate in the political process) forced portering and labour and the imposition of oppressive measures on ethnic minority groups (para. 228). After the 1988 and 1990 demonstrations, thousands of persons had reportedly been killed by the military (para. 232). In addition, approximately 250,000 Rakhine Muslims had been forced to flee across the border into Bangladesh (para. 235).

21. He had thus proposed some recommendations for consideration by the Government of Myanmar whereby it could fulfil its obligations under Articles 55 and 56 of the Charter (para. 242). They included acceding to the International Covenants on Human Rights and other international instruments; allowing the International Committee of the Red Cross free access to detainees; bringing the country's legal system into line with accepted international standards; lifting the state of emergency and martial law; eliminating forced labour; promoting the repatriation of the Rakhine Muslims by creating the necessary conditions for respecting their human rights; training military and law-enforcement officers with respect to their responsibilities under the relevant international human rights instruments; condemning all acts by officials involving human rights violations, without any system of impunity; and bringing to trial by an independent and internationally accessible civilian court, Daw Aung San Suu Kyi and all other persons arrested or detained under martial law.
22. Mr. ERMACORA (Special Rapporteur on the situation of human rights in Afghanistan), introducing his report (E/CN.4/1993/42), said that he had recently been informed that a new cease-fire was in place in Kabul and that political elements were meeting outside Afghanistan in an effort to resolve the situation.
23. Although the change of Government in the spring of 1992 had gone smoothly, the conflict in Afghanistan had persisted, the forces of the opposition to the former Afghan Government having proved incapable of establishing an effective Government. Such a Government was, however, vital for rectifying the human rights situation, restoring peace and unity and rebuilding the country.
24. There was a clear need for the international community to respond and the Secretary-General had launched two consolidated appeals for emergency humanitarian assistance in June 1992 and January 1993 respectively, designed to raise substantial funds for humanitarian action in areas such as mine clearance, voluntary repatriation, food aid, health, water supply and sanitation, emergency agricultural inputs and relief management support, for the purpose of assisting 2 million people in Afghanistan and the refugees who were expected to return in 1993.
25. The human rights situation was a product partly of the war against the Soviet forces and the former Government and partly of the current armed power struggle, whose victims were mainly civilians. To assess the facts, it was necessary to visit the country and other parts of the region. Unfortunately, although he had visited refugee camps and hospitals in Pakistan, he had been able to visit only Jalalabad and Mazar-i-Sharif in Afghanistan and had not visited Kabul since January 1992. In Pakistan, he had met officials of the Ministry for Foreign Affairs as well as some Afghan leaders but he had been unable to meet representatives of the Central Government in Kabul or to visit prisons and detention centres in the capital or elsewhere.
26. The country's new political leadership had based its policies on the Peshawar Accord, concluded on 24 April 1992. A Shura Ahl-e-Hal Wa Aqd (Council for problem-solving and agreement-making) had been held from 29 December 1992 to 1 January 1993, but there was still no government,

prime minister or constitution in Kabul, which had been the principal target of the armed power struggle. The city had suffered indiscriminate shelling and rocket attacks by the Hezbe Islami (Hekmatyar) party, causing unprecedented damage and heavy civilian casualties.

27. One of the main consequences of the earlier conflict was the refugee problem: more than 1 million refugees had returned to Afghanistan during 1992 but a further 4 million still remained abroad. However, the deterioration in the security situation in Afghanistan had slowed the flow of returning refugees, while the problem had been aggravated by the situation in neighbouring Tajikistan which had produced an exodus of Tajik refugees to Afghanistan. Moreover, thousands of people fleeing the combats in Kabul had either become refugees in Pakistan or displaced persons in areas as yet unaffected by the armed struggle. As pointed out in the study by the Representative of the Secretary-General on the human rights issues related to internally displaced persons (E/CN.4/1993/35), a legal framework for providing assistance to displaced persons was urgently needed.

28. A further source of concern in Afghanistan was the administration of justice, which existed to some extent at the local and regional levels, but without any proper hierarchy to guarantee the rule of law. The information he had received concerning the carrying out of death sentences in the second half of 1992 was shocking and, notwithstanding the principles of Islamic law, a country which was party to the International Covenant on Civil and Political Rights must abide by the rules relating to the death penalty enshrined therein.

29. As stressed by the Secretary-General in his report to the General Assembly at its forty-seventh session (A/47/705), the general amnesty declared at the time of the transfer of power in April 1992 should apply to all, and guarantees of safety and security should be provided for all Afghans, together with respect for human rights and the protection of personal property.

30. Although the former Government had reduced the number of political prisoners towards the end of its rule and the new Government had released the remaining prisoners and declared a general amnesty, a number of armed factions and political groups had since taken their own prisoners, allegedly to the number of 3,000. There were also reports that officials of the former Government had been detained and interrogated. Moreover, former Soviet soldiers were still being detained by former opposition forces.

31. The whereabouts and exact number of prisoners of various kinds were not known and elucidation of their fate was an absolute priority. They should not be held as hostages. It was clear that, under international law, the former Soviet prisoners must be released. The Russian authorities, incidentally, had expressed their willingness to send home any Afghan children still remaining in the territory of the Russian Federation.

32. It was estimated that 7 to 10 million mines had been laid in Afghanistan, a situation which posed a grave threat to the right to life. Despite the courageous efforts of those involved in mine-clearance operations, additional

technical assistance and personnel were needed, since normal life could not resume and the agricultural sector could not be rehabilitated until the clearance operations were completed.

33. Political stability was an absolute prerequisite for the reconstruction of Afghanistan and the need for effective central government was paramount. From the outset, the United Nations had firmly impressed upon the Government that the Shura held at the end of December 1992 should be fully representative of all the elements of Afghan society, regardless of ethnic, gender, religious or political affiliations. Reports indicated that that had not been the case and that the majority of speakers at the Shura had been clerics. In any case, the aftermath of the Shura had been an even deeper division between the two parties making up the Government and the parties of the opposition. That division was the root of the conflict in Kabul, which could easily spread to the rest of the country.
34. The United Nations could not only contribute to the enjoyment of minimum standards for economic, social and cultural rights, but could also advise the political elements in the country on how respect for civil and political rights should be ensured. Disagreements must be settled at the negotiating table. The international community should not apply different standards to different human rights situations and it could not remain indifferent to the fate of the Afghan people.
35. Mr. NDIAYE (Special Rapporteur on extrajudicial, summary or arbitrary executions), introducing his report (E/CN.4/1993/46), said that he had been shocked by the disparity between the scale of the task he had been given and the meagreness of the resources made available by the international community. The lack of facilities, equipment, documentation and staff was a serious handicap which must be overcome if the Commission was serious about eradicating the practice of extrajudicial, summary or arbitrary executions.
36. With regard to the legal framework within which his mandate was implemented, he had taken the view that, since the mandate extended to the right to life in the broadest sense, there was no reason not to include the Convention on the Prevention and Punishment of the Crime of Genocide of 1948 among the legal instruments to be taken into account. He had also taken into consideration the interpretation by the Committee on Human Rights of article 6 of the International Covenant on Civil and Political Rights, together with the highest standards relating to the right to a fair trial, when examining violations of the right to life in connection with the death penalty.
37. Account had also been taken of the irreversible nature of the death penalty and the desire of the international community to see it used as little as possible or even abolished. Special protection against extrajudicial, summary or arbitrary executions was also needed for minors, the mentally handicapped, refugees and persons in detention, women and children in armed conflicts and human rights defenders.

38. One of the main factors influencing the spread of summary executions was the impunity which their perpetrators enjoyed in certain States, especially if they were members of the armed forces or police. Executions carried out by armed opposition groups, paramilitary groups and death squads were also a source of great concern.

39. The report did not claim to provide a full picture of extrajudicial, summary or arbitrary executions throughout the world, but was rather an account of how he had carried out his mandate during the period in question. Had it not been for the efforts and commitment of the non-governmental organizations, very few allegations would have reached him at all. In the report, he described the methods used to evaluate the credibility of allegations, the position taken vis-à-vis national remedies and the place accorded to national legislation in the hierarchy of rules. He had also highlighted the problems posed by the absence of allegations in situations where it was widely known that extrajudicial executions were being carried out.

40. During his mandate, he had received 3,500 allegations of summary executions, which had been transmitted to 52 Governments. Despite the provisions of the Convention on the Rights of the Child, 189 of the allegations concerned persons under the age of 18. Out of the total, 519 cases concerned alleged violations of the right to freedom of opinion and expression, the right to freedom of religious belief and the right to peaceful assembly. On approximately 40 occasions, he had reminded the Governments concerned of their obligation under Commission resolution 1992/59 to protect those who availed themselves of or cooperated with procedures established under United Nations auspices.

41. Since he had drawn up the list of Governments that had not replied to the allegations he had transmitted to them (para. 692), replies had been received from a number of Governments, namely, the de facto Government of Haiti and the Governments of Lesotho, Sudan, United States of America and Yemen. A number of other Governments had replied to follow-up letters addressed to them: Brazil, India, Myanmar, Peru, Sudan, Chad, Thailand, Turkey, Argentina, Ethiopia, Jamaica, Senegal, Trinidad and Tobago and Mauritania. In cases such as those of South Africa and Zaire, where a Government kept silence systematically over the years, he sought the guidance of the Commission on ways to encourage better cooperation.

42. In an endeavour to achieve dialogue with all, he was holding an extremely fruitful series of informal meetings with regional groups and seeking to pay visits to countries. Such visits were not aimed at placing Governments in the dock, but were, on the contrary, the only means for him fully to understand the legal, social and political-economic context of a country in order to assess the accuracy of allegations and the best way to deal with them.

43. In that spirit, he had accepted an invitation given by the Government of Peru to his predecessor, obtained an agreement in principle from the Government of Turkey for a visit and requested invitations to visit the People's Republic of China and Rwanda and to make a follow-up visit to Colombia.

44. The large number of violations of the right to life based on racial, ethnic or religious discrimination, which often led to conflicts between communities with the active or passive complicity of the forces of order, required a mechanism for monitoring such conflicts and preventing extrajudicial executions (para. 684). The report also stressed the need to give serious consideration to the question of human, material and financial resources (paras. 700-702) and to increase the publicity given to his reports (paras. 703-705). He hoped that the item would be included in the agenda of a meeting of special rapporteurs and experts in preparation for the forthcoming World Conference on Human Rights.

45. Mr. NIKKEN (Independent Expert on the situation on human rights in El Salvador), introducing his report (E/CN.4/1993/11), said that El Salvador had been the scene of a significant United Nations effort in pursuit of peace, democratization, national reconciliation and strict respect for human rights. The signing of the Peace Agreements by the Government of El Salvador and the Frente Farabundo Marti para la Liberación Nacional (FMLN) had put an end to the war, and peace was viewed as an irreversibly won right. The former FMLN combatants had been reintegrated into the civilian, institutional and political life of the country, and the task of building a new, more democratic society with full respect for human rights had begun. The task of the Independent Expert was thus mainly to assess the impact of the Peace Agreements on the effective enjoyment of human rights.

46. He drew attention to the conclusions and recommendations in his report (paras. 252-281), of which he gave a brief summary.

47. Mr. VOLIO JIMENEZ (Expert on the human rights situation in Equatorial Guinea), said that his report (E/CN.4/1993/48) covered the most relevant events in Equatorial Guinea during 1992 and focused on complaints of human rights violations attributed to the Government of the country (paras. 12-22). Although the period covered in the report had ended for technical reasons on 15 December 1992, information and complaints of human rights violations continued to be received.

48. As a first measure in fulfilment of his mandate, he had sought the opinion of the Government of Equatorial Guinea on the report, in which he had reiterated the need for the Government to implement the "Emergency Plan of Action" recommended in his previous report (E/CN.4/1992/51, para. 125) since, after 14 years of experience in dealing with the case of Equatorial Guinea, he was convinced that without clear and systematic attitudes and action by the Government, no progress was possible.

49. The Government of Equatorial Guinea had neither expressed an opinion on the "Emergency Plan of Action" nor implemented any other plan. Despite its announcement of the authorization of political parties, ministerial changes and a few limited and isolated measures, the situation continued to be serious and had even deteriorated, as detailed in the report. Power was still concentrated in the hands of the President, and repression was directed not only at members of opposition political parties but at other sectors.

50. Detentions, ill-treatment, reprisals and intimidations continued to be frequent. In that connection, he referred to the violent repression by the police of a demonstration on 17 December 1992 at Malabo on behalf of several teachers detained and ill-treated by the police. The demonstrators had been attacked by the police and several of them had been detained and beaten, including two Catholic priests, whom the President had refused to release for treatment despite the intercession of the Expert.

51. One of the most seriously ill-treated demonstrators, Mr. Celestino Bakale Obiang, a mining engineer and teacher at the country's leading high school, had suffered constant persecution for belonging to a political party, including dismissal from posts, detention and a beating that had forced him to seek medical attention outside the country. Mr. Bakale was currently in Switzerland and had made both verbal and written statements to the Centre for Human Rights reporting what was occurring in the country. Other recent information received by the Expert was contained in paragraphs 12 to 19 of his report.

52. Some 14 years after the ouster of the terrible dictator Francisco Macías, the country was moving even further from the democratic goal that the people and Government had set for themselves at that time. United Nations efforts must be intensified if human rights were to be adequately protected in Equatorial Guinea.

53. Mr. GROTH (Special Rapporteur on the situation of human rights in Cuba) said that, because of the complete lack of cooperation by the Cuban Government and the resultant impossibility of visiting the country, he had had to prepare his report (E/CN.4/1993/39) using information received from individuals and non-governmental organizations. Every effort had been made to retain only the most reliable and up-to-date information, but some margin of error was inevitable. He had also taken into account the information supplied by the Government of Cuba in reply to communications transmitted to it by various United Nations mechanisms during 1992 (paras. 10-19), and the reports by the International Labour Organisation on trade union freedom (paras. 56-58).

54. The report did not claim to make an exhaustive analysis of the situation regarding each and every one of the rights set forth in the Universal Declaration. The impossibility of visiting the country and of talking directly to the various social sectors had prevented him from going deeply into many aspects, including the legal and institutional aspects. The report was therefore focused on certain rights whose violation appeared to be most frequent and striking.

55. One of the most visible and general problems facing the population was the lack of freedom of opinion and expression, with all the consequences that derived therefrom. At its previous session, the Commission had approved without a vote resolution 1992/22 on the right to freedom of opinion and expression, in which reference was made to the link between violations of the right to freedom of opinion, and expression and violations of other fundamental rights. In his opinion, that link was clear in the case of Cuba.

56. By way of illustration, the report examined a series of cases of persons who, in 1992, had been sentenced to terms of imprisonment in trials at which the guarantees established by law had not been respected or who had been subjected to intimidation or temporary detention or had lost their employment for having expressed opinions considered to be critical of the regime or for having belonged to groups which, despite having applied for legalization, had never received a reply from the authorities (paras. 40-55).

57. In some cases, other family members had been directly affected by measures such as the loss of employment or expulsion from educational establishments. Such cases were by no means infrequent. Moreover, the immense majority of the activities of the persons concerned had been utterly peaceful, and many of them had demonstrated a clear attachment to their country; nevertheless, the authorities continued to show, as in the past, great intransigence. An improvement in the human rights situation in Cuba must necessarily begin with a dialogue between the authorities and the various currents of opinion existing in the country.

58. The situation of the prison population also continued to be a cause of concern, since the living conditions of prisoners appeared to have deteriorated alarmingly in the past year (paras. 73-79). It should be borne in mind that, in any country, the group most dependent on the State and therefore most vulnerable to any defect in the functioning of the system was the prison population.

59. The report did not mention the right to life because, in the period it covered, violations such as summary or arbitrary executions or enforced or involuntary disappearances had not been representative of the situation in Cuba. The Cuban political system and Cuban society had their own specific characteristics, and consequently the human rights situation and systematic violations also had their own specific features. However, that in no way justified the violations that occurred, even when comparisons were made with other countries.

60. From the legislative point of view, it was worth mentioning that the 1976 Constitution had been revised in July 1992. In his report (paras. 21-25), he had tried to put together those aspects of the revision that appeared most important for human rights. Nevertheless, he considered that the changes made would help to a very small extent only to raise the level of human rights protection. He had also taken note of the new Elections Act approved in October 1992 (para. 25) and on the basis of which municipal elections had been held in December 1992 and elections to the national and provincial assemblies on 24 February 1993. Those elections had enabled the people to vote directly for the first time. However, the fact that they had been held under a one-party system and that the voters had been unable to choose between different lists raised doubts about the Cuban people's real possibility of designating its representatives. The legislative developments he had mentioned should have given to sectors which had no voice but which undoubtedly existed an opportunity to participate in the political process.

61. He hoped that the Commission would give particular consideration to the conclusions and recommendations contained in his report (paras. 80-91).

62. Mr. PÉREZ NOVOA (Cuba) said that his Government had given many examples of its scrupulous respect for the international contractual obligations it had entered into as a State Member of the United Nations and ample proof of its desire to cooperate with the Centre for Human Rights, and other relevant human rights mechanisms, such as those established under Economic and Social Council resolution 1503 (XLVIII), and with the Commission's thematic rapporteurs and working groups, as had been recognized in their various reports. It had also, on many occasions, reiterated its willingness to continue to cooperate with regard to all mechanisms and procedures applied to all States on a universal, non-selective and non-discriminatory basis.

63. Everyone, however, was aware of his Government's decision to reject Commission resolutions 1991/68 and 1992/61, which were the product of the most unworthy manipulations and pressures by the United States of America. Consequently it did not accept the imposition of a Special Rapporteur as a result of a partial, selective, discriminatory and openly unfair procedure whereby an attempt was being made to place Cuba on the same footing as countries in which there was definitely a consistent pattern of gross violations of human rights as a result of a long-standing political vendetta. His Government had thus not offered, and would not offer, any cooperation to the Special Rapporteur or to any other rapporteur imposed upon the Commission in respect of Cuba.

64. Some days previously, the United States representative had stated that a certain resolution adopted over the negative vote of his delegation would be a dead letter, thereby displaying contempt for the votes of the other members of the Commission. By the same token, therefore, the United States delegation should logically recognize the right of Cuba not to comply with the provisions of Commission resolution 1992/61, which it had not only voted against but which had been approved by a very small majority as a result of grotesque manipulations and ferocious pressures, unless, of course the vote of the United States was the only one that counted in an Organization in which all Member States had equal rights to express their opinions and to have them taken into account.

65. Once against a double standard was being imposed on the Commission, marked by complacent indulgence for those who followed the dictates of the United States and by intransigence and condemnation for those who opted for a sovereign and independent course.

66. The Commission had before it the Special Rapporteur's report (E/CN.4/1993/39). It was most regrettable that the Special Rapporteur, who was acquainted with the realities of Cuba, should have lent himself to such an ideological vendetta. The report lacked the impartiality, objectivity and independence which, as the Special Rapporteur himself acknowledged (para. 83), every Commission rapporteur or expert must show. Moreover, its sheer volume, one half of which was unnecessary and repetitive, might mislead anyone who had not read it into believing that there really was a serious human rights problem in Cuba.

67. Paragraph 9 of the report listed the various sources the Special Rapporteur had consulted, placing on the same level non-governmental organizations of recognized prestige and credibility and tiny groups known for

their subservience to the United States in its policy of aggression against Cuba. He had seen fit to include in his report, however, only the opinions and information supplied by some alleged human rights groups which were covertly financed by an organization that was, in that regard, the success of the CIA, and had disregarded the opinions of respected non-governmental organizations. Such selectivity was evidence not only of his partiality but also of his intent to deceive readers into believing that the opinions reflected were those of all the sources he had consulted.

68. Thus, in paragraph 31 of chapter IV on the rights to freedom of opinion, assembly and association, the Special Rapporteur considered "worth mentioning" a document prepared by the non-governmental organization Americas Watch on 30 September 1992. However, he did not apparently consider "worth mentioning" another document prepared by the same organization in August 1992 which listed a number of cases of violations of the human rights of Cubans residing in Miami.

69. There was also an attempt in the report to extend in practice the mandate conferred upon the Special Rapporteur by the Commission. Thus, in paragraphs 12 to 18, he included a mutilated summary of the information on Cuba appearing in the reports submitted by thematic rapporteurs and working groups. It was not clear on what basis the report incorporated references to other reports resulting from Cuba's cooperation with mechanisms established under non-discriminatory procedures but it was significant that the practice was recommended in the draft resolution on Cuba being circulated by the United States delegation.

70. The Special Rapporteur also believed that he was entitled to question the Cuban Constitution (paras. 25, 28 and 29) and to accept as relevant (paras. 30, 35, 37 and 39) the questions on constitutional and legal rules put by the mission of the Commission on Human Rights which had visited Cuba in 1988 at the invitation of its Government. The Constitution was a matter solely for the people of Cuba, which had adopted it by an affirmative vote of 97 per cent, and for nobody else. The Constitution was essentially within the domestic jurisdiction of the State, and the Cuban people would never submit it to international scrutiny.

71. In paragraph 24, the Special Rapporteur mentioned that elections to the municipal assemblies had been held on 20 December 1992. He did not mention, however, that the turn-out for those elections which had been conducted by direct and secret ballot, had been 97.2 per cent of the population.

72. The Commission could not accept the report as a serious, objective and impartial document when the Special Rapporteur, on the subject of trade union freedom (chap. V), reproduced the conclusions reached by two competent organs as the result of an investigation made under ILO procedures. He was, perhaps, seeking to review Cuba's relations with all the international organizations of which it was a member and in respect of all the conventions which it had ratified.

73. With regard to chapter VI on religious freedom, his delegation was astonished at the Special Rapporteur's concern for alleged cases involving a Jehovah's Witness and a Seventh Day Adventist when publications that the

Special Rapporteur himself accepted as reliable sources denounced the ill-treatment and imprisonment of more than 500 Jehovah's Witnesses for having refused to perform compulsory military service in countries where violations of human rights were not apparently serious enough to merit the appointment of a special rapporteur. In any case, problems associated with Jehovah's Witnesses were in no way peculiar to Cuba but arose in most countries.

74. Cuba had never failed to comply with its commitments under Articles 55 (c) and 56 of the Charter (para. 84), as was evidenced by his Government's bold efforts over 34 years to guarantee to the entire Cuban people the rights to full freedom, human dignity, employment, health, education, housing, food, culture and recreation, even in the most difficult circumstances. In any case, there was no legal basis for requiring Cuba to comply with the provisions of texts that were merely recommendations and lacked binding force.

75. Disregarding the basic principle of the indivisibility and interdependence of human rights laid down in the United Nations Charter, the Universal Declaration and other human rights instruments, the Special Rapporteur had decided (para. 85) to focus his attention on some and to leave out others. If the right to life was not mentioned because violations of it were not characteristic of the situation in Cuba, it was left to the reader's imagination to inquire why economic, social and cultural rights were not considered. Perhaps the Special Rapporteur did not deem it relevant to examine the very important right of all peoples to development. By failing to do so, he avoided having to refer to the criminal and unjust blockade imposed against Cuba by the United States.

76. In his concluding paragraphs (89-91), the Special Rapporteur had refrained from mentioning by name those responsible for the climate of hostility to which he referred. It was unclear why he had not stated that the United States was the promoter of the most aggressive actions against Cuba, the most recent being the promulgation of the Torricelli Act.

77. The assessments made by the Special Rapporteur in paragraph 89 also called into question the validity of his appointment and the inclusion of Cuba for consideration under agenda item 12. If, by the expression "anchored in the past" he meant the decision of the Cuban people to maintain its independence and sovereignty and to defend the economic, political and social conquests of its Revolution, Cuba would certainly remain so and would continue its course towards a radiant future, despite the pressures to which it was subjected.

78. The Special Rapporteur had failed absolutely to establish that there was a consistent pattern of gross violations of human rights in Cuba. No such situation had been revealed either by the report submitted by the mission of the Commission on Human Rights which had visited Cuba in 1988, by the public debate on it held by the Commission in 1989 or by the report submitted by the Secretary-General to the Commission at its forty-seventh session.

79. The insistence on maintaining Cuba on the list of countries to be considered under item 12 thus had a single objective: to challenge the Cuban Revolution and support the United States political vendetta against Cuba. The Cuban people, which had experienced so many triumphs and so much suffering, would never surrender, however. On 24 February 1993, it had voted overwhelmingly not only for its Government but also for its Revolution, its political, economic and social system, its human rights, and its President.

80. Mr. SCHIFTER (United States of America), speaking in exercise of the right of reply, said that the response of the Cuban delegation to the very thoughtful report prepared by an outstanding authority on human rights gave an inkling of the outlook of the leadership in Havana. Instead of discussing the allegations presented, it had attacked the Special Rapporteur and, not surprisingly, the United States of America, neither of which needed defending. Cuba was in a "time warp", and the day was not far distant when it would emerge from it, free, independent and democratic.

81. Mr. YOUSIF (Sudan), speaking in exercise of the right of reply, said that the observer for Denmark speaking on behalf of the European Community, had made some allegations regarding the human rights situation in the Sudan. His delegation reiterated its conviction that those allegations were politically motivated and based on reports from dubious sources. Grossly biased, unbalanced, exaggerated and unjustified, they formed part of a well-orchestrated campaign against the Sudanese Government because of its Islamic orientation.

82. That could easily be inferred from the reference in the statement to the so-called "inhuman and degrading punishments", which presumably meant the Islamic penalties contained in the Sudanese Penal Code of 1991. Those penalties were divine and formed an integral part of the Islamic faith. The description of them by the observer for Denmark was thus a direct affront to all Muslims.

83. The statement by the observer for Denmark also contained some sweeping allegations based on fabrications by some quarters that were ignorant of the traditions and culture of the Sudanese people. The European Community and the United States of America were targeting Sudan for the political reasons that had been repeatedly explained by his delegation. They had manipulated the Commission by interrupting the confidential procedure with respect to Sudan under Economic and Social Council resolution 1503 (XLVIII).

84. They had opposed the recommendation of the Working Group on Situations and had refused to allow the Independent Expert to complete his investigation because they knew that it would deprive them of the excuses and pretexts on which they were basing their malicious campaign.

85. His delegation also dismissed as erroneous, exaggerated and unfounded the statement made by the representative of Amnesty International. Since October 1990, Amnesty International had repeatedly turned down invitations by the Government to visit the Sudan and verify its report. The latest had been an invitation to Amnesty International in January 1993 to attend a conference

on human rights at Khartoum and verify the allegations it had repeatedly made against the Sudan. Amnesty International would probably never accept an invitation to visit the Sudan, because, if it did so, it would no longer have any grounds for complaint. In view of its partiality and bias, Amnesty International was no longer a credible organization.

86. In any case, it was high time that the Commission stopped the imposition of human rights concepts, values and ideologies by a few countries that set themselves up as human rights judges, thereby using human rights issues as a means of applying political pressure.

The meeting rose at 6.15 p.m.



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SUMMARY RECORD OF THE 49th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 2 March 1993, at 7 p.m.

Chairman: Mr. FLINTERMAN (Netherlands)

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The meeting was called to order at 7.20 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(agenda item 12) (continued) (E/CN.4/1993/7-E/CN.4/Sub.2/1992/55, E/CN.4/1993/36-41 and Add.1, 42-49, 75 and 76, 79, 82, 86, 95, 99 and 102; E/CN.4/1993/NGO/6, 8, 12, 16, 23, 26-28, 31 and 38; E/CN.4/1992/29, 30 and Add.1, 32-34, 50 and Add.1, and 51; A/47/240, 367 and Add.1, 596, 617, 621, 625 and Corr.1, 651 and 656)

1. Mr. AL-DOURI (Observer for Iraq) said that in presenting his report on the situation of human rights in Iraq (E/CN.4/1993/45), the Special Rapporteur had provided information and evidence the credibility of which had not been verified. The Special Rapporteur should have adopted a more serious attitude in carrying out his mandate.

2. In examining the human rights situation in his country, two issues must be borne in mind. First, in the current critical period of its history, Iraq was concentrating its efforts on maintaining its independence and sovereignty by all legitimate means and on repairing its infrastructure damaged by the recent aggression against it. However, the Special Rapporteur had approached the issue of Iraq's sovereignty in a manner contrary to international law and had referred to obligations undertaken under international treaties and to Security Council resolutions. It should be borne in mind that treaties related to a specific framework which should not be circumvented. Similarly, the Security Council resolutions were political in nature and should not be interpreted extensively. Otherwise, such an approach would run counter to the spirit of the Charter of the United Nations. In that connection, he said that the Security Council resolutions adopted during and after the Gulf crisis had all stressed Iraq's sovereignty and national integrity.

3. Second, with regard to the right to life, he said that in view of the economic blockade, his Government had been focusing its attention on ways to ensure that the population received food and medical care. However, the Special Rapporteur had either ignored those two issues or exploited them in order to achieve a political objective, that of undermining Iraq's sovereignty.

4. His delegation believed that the Special Rapporteur's mandate was no longer justifiable, particularly since his most recent report merely repeated what had appeared in his previous reports. Furthermore, the Special Rapporteur's information came from persons known for their connections with hostile neighbouring countries or with Western coalition countries. In his delegation's opinion, the Special Rapporteur was investigating questions irrelevant to his mandate and had achieved nothing other than serving the political purposes of countries hostile to Iraq.

5. With respect to the Special Rapporteur's reference to the inhabitants of the southern marsh area of Iraq whom he had called an indigenous population, he said that the term "indigenous population" bore an internationally accepted meaning and could in no way be applied to the people of that area. The information given by the Special Rapporteur concerning the people of the southern marsh area was intended to provide the coalition countries with an excuse to impose a new exclusion zone north of the thirty-sixth parallel so that they could achieve their objective of partitioning Iraq.
6. The Special Rapporteur had failed to differentiate between the original inhabitants of the area who lived simple lives and others who lived there only because they belonged to a band of army deserters or outlaws.
7. With regard to the Kurds, it was well known that the northern area was no longer under the direct control of the central authorities because of the military intervention by the coalition forces.
8. The report of the Special Rapporteur involved a new attempt to send permanent monitors to Iraq to monitor the human rights situation there and, subsequently, to turn the south into an area where the central authorities did not exercise direct control, as was the case in the north at the present time. His delegation therefore appealed to the Commission to oppose that proposal, which was a political weapon used to infringe upon the sovereignty of the State. He regretted that the Special Rapporteur had become involved in an attempt to commit a horrendous crime against the Iraqi people.
9. He called on the Commission to take into consideration the serious consequences of the economic blockade imposed on the Iraqi people and hoped that it would take a decision similar to decision 1992/106 adopted by the Sub-Commission at its forty-fourth session.
10. U TIN KYAW HLAING (Observer for Myanmar) said that since its accession to independence, his country had had two Constitutions. The first had been drafted by a Constituent Assembly and been based on the principle of multi-party parliamentary democracy. The Constitution had not been satisfactory because of certain weaknesses. The second Constitution, adopted by referendum in 1974, had provided for a one-party system with a planned socialist economy. There again, because of certain weaknesses, it had become unworkable. There were 135 national racial groups in Myanmar and if the Constitution was to endure, it must be acceptable to those groups.
11. The State Law and Order Restoration Council had taken over State power to prevent the country from disintegrating. It had given assurances that it would hand over State power at an appropriate time, in accordance with the new Constitution to be drafted by the elected representatives. All in Myanmar agreed that the path to democracy was through the mechanism of a national convention, which was in fact meeting at the present time. It was attended by representatives of the whole strata of Myanmar society and had the task of laying down basic principles to be enshrined in the new Constitution.

12. Democracy could not take root when anarchy reigned supreme. Without law and order there could be no democracy. His Government believed that the country had attained the right atmosphere for laying down the principles and institutions for the establishment of democracy.

13. With regard to human rights in Myanmar, he said that in his country there was no situation where a person had to weave his way through beggars and muggers or step over homeless people in the street and where the large proportion of the people were helpless when they fell ill. His Government was doing its utmost to ensure that the people of Myanmar enjoyed human rights in all their dimensions.

14. The report of the Special Rapporteur on the situation of human rights in Myanmar (E/CN.4/1993/37) was totally flawed and completely lacked balance and objectivity. It virtually ignored the positive steps being taken by his Government with regard to the ongoing political process as well as to the uplifting of the economy and the promotion and enhancement of the basic fundamental rights of the Myanmar people. One of the main reasons for that fact was that one of the members who had accompanied the Special Rapporteur on his visit to Myanmar was irrefutably involved in activities against the Government and people.

15. The following statements in paragraph 226 were some examples of non-objectivity in the report referring to the 1982 Myanmar Citizenship Law: "The Special Rapporteur has concluded that the effect of this law is to create conditions which promote statelessness. Categories of persons at high risk of becoming victims of human rights violations may create flows of refugees which overburden other countries and create threats to peace and tranquillity within the region".

16. With regard to the second sentence, he said that Myanmar was a peace-loving nation; a basic tenet of its foreign policy was the principle of peaceful coexistence. Since independence, Myanmar had maintained friendly relations with other countries and had never represented a threat to any country or neighbour. His delegation could catalogue the contributions made by Myanmar to regional and international peace and stability. It was one of the founders of the Non-Aligned Movement and had served with distinction in numerous international organizations concerned with international peace and stability.

17. With regard to the first assertion, there was no truth whatsoever to the claim that the provisions of the law were directed primarily at the Rakhine Muslim population to prohibit them from ever gaining nationality or associate nationality. The Law provided that all residents had the right to apply for naturalized citizenship, associate citizenship and full citizenship in the Rakhine State, like other residents in the country. In Myanmar citizens had the right not only to vote but to stand for election. Associate citizens and naturalized citizens had the right to vote but could not stand as candidates in the general elections. Members of the Commission would be aware of the fact that in many democratic countries a person who was a naturalized citizen had the right to vote but could never become Head of State or Head of Government.

18. Another factual error in the report was the Special Rapporteur's claim that he "was not allowed to see any of the political leaders". That was not true. He had met the Chairman and the Secretary of the National League for Democracy as well as the Chairman and the Joint General Secretary of Shan Nationalities League for Democracy, which were two major political parties, on 10 December 1992.

19. Mr. HALINEN (Finland) expressed his Government's full support for the work of the special rapporteurs and special representatives, which was often difficult and delicate in nature.

20. Recent situations, particularly in Yugoslavia, Cambodia and Somalia, indicated that grave human rights violations were apt to increase the threat to international peace. Clearly, human rights had to be integrated in a much more substantial way in all global and regional peace-keeping, peace-making, early warning and preventive activities. As the abhorrent events in the former Yugoslavia had demonstrated, those responsible for serious violations of basic human rights and international humanitarian law must be brought to trial for their acts. His delegation therefore welcomed the Security Council's decision to establish an international war crimes tribunal in resolution 808 (1993).

21. His Government was pleased to see democracy taking root or consolidating its hold in many parts of the world where non-democratic regimes or outright dictatorships had been commonplace, such as in Latin America and Africa. In its view, democracy based on popular participation, good governance, independent judiciary and rule of law also supported sustainable development.

22. His delegation had been encouraged by developments in Romania, which, with the advisory services of the Centre for Human Rights, had been able to tackle many of the major obstacles to the fulfilment of the new democratic Constitution and an independent judiciary. However, appropriate scrutiny by the international community had to be maintained.

23. In El Salvador, his Government welcomed the end of hostilities, which was a crucial condition for the full enjoyment of human rights. However, that development by itself did not guarantee that human rights violations would not occur. He therefore stressed the importance of the human rights dimension of ONUSAL and supported the work of the Truth Commission, the appointed Ombudsman and the ad hoc Commission. His delegation urged the Government of El Salvador to do its utmost to expedite the purge of military personnel implicated in human rights abuses.

24. In Iraq, the Government had continued its systematic violation of virtually all basic rights of its population. The country was ruled by terror and oppression and even the most modest expressions of opposition to the current leadership were brutally reprimanded. Death sentences and executions were common. The situation of minorities, the Kurds and the Shia in the southern marshes continued to be critical.

25. The Commission should again clearly express its strongest condemnation of the massive violations of human rights for which the Government of Iraq was responsible. His delegation urged the Government to comply with the

International Covenants on Human Rights which it had ratified. It called on the Government of Iraq to abide by the resolutions approved by the Security Council on the situation in Iraq, as that was a prerequisite to any real improvement in the overall situation in the country, including that of human rights.

26. His Government was deeply concerned at the deteriorating human rights situation in Myanmar. According to the report of the Special Rapporteur (E/CN.4/Sub.2/1993/37), defenceless civilians were arbitrarily arrested and even executed. Torture and brutal repression were common and the latest evidence of the Government's intransigence was the refusal to allow a special mission of Nobel Peace Prize Laureates to enter the country. He urged the Government to release immediately the political prisoners, including the Nobel Prize Laureate Daw Aung San Suu Kyi, who was still under house arrest.

27. In Cuba, there was no freedom of speech, of expression or of association. Human rights defenders were subject to continuous harassment. More guarantees were urgently needed in the country's legal system and in the procedure for applying for permission to leave or enter the country. His delegation urged the Government to allow the Special Rapporteur to enter the country and to cooperate fully with him.

28. In Haiti, the military coup that had overthrown the Government of President Aristide, had brought into power an oppressive regime which seemed to have little respect for human rights. The democratically elected President must be restored to office. His delegation noted with satisfaction the cooperation between the United Nations bodies and those of the Organization of American States to promote a solution to the political situation in the country and to enhance the human rights situation there by dispatching a human rights mission to Haiti. It also shared the view of the Special Rapporteur that the situation in Haiti should be continuously monitored by the Commission.

29. In the Islamic Republic of Iran, the Commission's attention was once again drawn to the many shortcomings of several basic rights, in particular the administration of justice, non-observance of the rules of due legal process, and the extended use of death sentences. Although the legal system in the country advocated tolerance of different religions, many Baha'is were still deprived of their basic rights as citizens. Moreover, members of that community were often persecuted and maltreated.

30. His delegation supported the recommendations of the Special Representative and urged the Iranian Government to implement fully the international instruments on human rights and fundamental freedoms. In addition, he reiterated his Government's disapproval of the death decree issued against a British author, Mr. Salman Rushdie, as a totally unacceptable and unjustified act.

31. The attention of the world community had been drawn to the constantly worsening human rights situation in Sudan. His delegation fully supported the draft resolution presented on the situation and considered the appointment of a special representative justified.

32. The deteriorating human rights situation in Zaire gave cause for concern. The world had witnessed several genuine attempts in Africa to achieve democracy, including free and fair elections and multi-party mechanisms. Regrettably, Zaire had not heeded the call by the international community to respect human rights and to begin a democratic process. His country closely followed the human rights situation in East Timor. It condemned the violent incident in 1991 at Dili and acknowledged the investigation carried out quickly. However, it was concerned about the disparity of sentences given to civilians compared with those given to the military. Finland also remained concerned over the denial of access to East Timor by human rights organizations.

33. In China, after the events of 1989, harsh sentences had been passed against those considered as having acted against the Government. Many people were still in prison for exercising their freedom of expression. His delegation, while welcoming the release of a few detainees, urged the Government of the People's Republic of China to discuss its human rights questions in a constructive manner.

34. The situation in Guatemala had improved in the sense that extrajudicial executions and abductions had decreased. However, the overall situation still needed close scrutiny by the Commission. In his delegation's view, an early conclusion of the peace process would bring a solution to the remaining human rights problems.

35. The list of countries which violated human rights was not and could not be exhaustive. Governments bore the primary responsibility for the protection of human rights and fundamental freedoms and must commit themselves to their full implementation. The credibility of human rights mechanisms need to be strengthened, for example, by streamlining their efficiency, while it was of vital importance that more resources and adequate staff should be allocated to the Centre for Human Rights, as well as the different mechanisms, particularly the special rapporteurs.

36. Mr. SOTIROV (Bulgaria) said that the Commission on Human Rights had proved, since its inception, to be an efficient and indispensable instrument for the protection, promotion and implementation of human rights, although it was obvious that much still remained to be done since massive and flagrant violations of human rights continued to occur in many parts of the globe. The Commission was currently facing new and serious challenges produced by the dramatic changes in the world, which along with their potential to promote democracy and the rule of law had led in various countries to the rise of extreme nationalism, racial hatred, xenophobia, religious intolerance and ethnic tensions. The complexity and diversity of human rights situations required more than ever the efficient utilization of the experience accumulated by the United Nations over the years.

37. No country was totally immune to human rights violations. However, the magnitude of some of those violations could even pose a serious threat to regional and global peace and security; the situation in the territory of the former Yugoslavia was a clear example of such a threat. His delegation deemed it necessary to reiterate its categorical condemnation of the systematic breaches of the fundamental principles of international humanitarian law

resulting in massive human rights violations. The international community must express its determination not to yield to the policy of fait accompli and must ensure that the perpetrators of mass and flagrant violations of human rights were brought to justice. His delegation supported Security Council resolution 808 (1993) on the establishment of an international tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia.

38. His delegation also wished to voice its serious concern regarding the harassment of minorities in all parts of the territory of the former Yugoslavia, and particularly the Bulgarian minority. Many Bulgarians did not declare their nationality because of psychological pressure, direct intimidation and other violations which affected the personal, material and professional interests of those who actively identified themselves as Bulgarians.

39. His Government was also concerned that the Cyprus question still remained unresolved. It supported the resolutions adopted by the Commission on Human Rights, the Security Council and the General Assembly calling for a comprehensive, just and lasting solution and believed that the mission of good offices of the Secretary-General of the United Nations could play an important role in the efforts to reach a mutually acceptable agreement. In order to increase confidence, every effort should be made to avoid steps which could further complicate the talks between the two communities. The primacy of the norms of international law and the rule of law as the fundamental premise of democracy were not always attainable; without them the first casualties were human rights and fundamental freedoms.

40. With regard to the Middle East situation, his delegation held the view that every effort should be made to overcome the stereotypes accumulated over years of confrontation among the parties involved in the conflict, as well as to avoid all steps that might lead to an aggravation of the situation and pose a danger to the peace talks. It continued to be seriously concerned by the recent increase in violence and the further deterioration of the human rights situation in the occupied Arab territories. It condemned the deportation of hundreds of Palestinians and urged the Israeli Government to comply fully with its obligations under the Fourth Geneva Convention of 1949.

41. The new international political environment had significantly increased the interest of the world public in questions of human rights. It was his delegation's firm conviction that better awareness of human rights was a conditio sine qua non for their effective implementation and protection. The difficult process of the revival of democratic traditions, particularly in eastern Europe had been practically expressed in a radical restructuring of the legal base and in the establishment of national machinery for monitoring human rights and assisting in their protection.

42. Mr. MACRIS (Cyprus) said that the question of human rights in Cyprus had first been placed on the agenda of the Commission in 1975, where it had since remained. He would have liked to have announced some progress in the situation but was unable to do so because Cyprus had become afflicted with a

"question", a geopolitical disease which seemed to spread alarmingly in the contemporary world because the root causes of such "questions" were rarely decisively and effectively addressed by the community of nations.

43. A crucial element for understanding the question of violations of human rights in Cyprus was the fact that they did not result from the existence of an authoritarian state but were the direct result of the military invasion of a small and defenceless country, the Republic of Cyprus, by its mighty neighbour, Turkey, in 1974, the occupation of 37 per cent of the country's territory by Turkish military forces and its continued occupation to date.

44. While the Secretary-General's report (E/CN.4/1993/36) gave a lucid account of the situation and the efforts deployed for the solution of the Cyprus problem since the last session of the Commission, his delegation wished to provide some additional information on massive violations of human rights.

45. In April 1992, the report of the European Commission of Human Rights on the Third Recourse of the Government of Cyprus against the Government of Turkey had been made public, almost nine years after its adoption in October 1983. The Commission found that Turkey's continuing occupation of Cyprus violated articles 5, 8, 14 and 26 of the European Convention as well as Protocol 1, article 1, and had arrived at the following conclusions: in respect of missing persons, Turkey had failed to account for the fate of Greek Cypriots in Turkish custody in 1974; with regard to the displacement of persons and separation of families, Turkey had continued to refuse to allow over 170,000 Greek Cypriot refugees to return to their homes in northern Cyprus while their physical return was prevented by the fact that the demarcation line across Cyprus was sealed off by the Turkish army; concerning deprivation of possessions, Greek Cypriots in the north of the island had been deprived of their property while there had also been interference with the property rights of some 7,000 Greek Cypriots who had moved to the south part of the island since 1976; and in respect of discrimination against the Greek Cypriot community, a policy of ethnic cleansing implemented by Turkey had been confirmed.

46. Since 1974, when freedom of movement and residence had been denied to both Greek and Turkish Cypriots, Turkey had carried out a policy of gradual settlement of the occupied areas by importing Turkish settlers, with the objective of distorting the balance of the island's democracy. The Parliamentary Assembly of the Council of Europe had adopted a recommendation in October 1992 on the report of the Rapporteur of the Committee on Refugees, Migration and Democracy, which documented the massive influx of settlers from Turkey into the occupied territory. The Assembly had considered that the presence of Turkish nationals was an additional obstacle to the peaceful solution of the Cyprus problem. Its recommendation would no doubt contribute to the Cyprus Government's efforts to withdraw all Turkish settlers and restore human rights and fundamental freedoms to the people of Cyprus as a whole. The recommendation had also suggested that a census of the Cyprus population should be carried out, as the Security Council had reiterated in resolution 789 (1992), in order to ascertain the number of Turkish settlers in the occupied area.

47. As a result of the Turkish invasion and occupation, approximately 20,000 Greek Cypriots had remained in the occupied part of the island. In 1993, only a few hundred remained as the result of a persistent policy of harassment, racial discrimination, intimidation and coercion carried out by the Turkish occupation army in order to force the Greek Cypriot enclave to move to the part under government control. Many families were still separated as a result of the forcible division of the country. Due to the refusal of the Turkish occupation authorities to allow the operation of secondary schools for Greek Cypriot children in the enclave, the latter, on reaching the age of 12, had no choice but to go to the government-controlled area to attend school and after a certain age were no longer allowed to return to the occupied area for vacations. Similarly, relatives were not allowed to visit the enclave. The separation of families under such inhuman policies was an example of ethnic cleansing intended to force the remaining Greek Cypriots from their homes.

48. The efforts to divide the Republic of Cyprus on the lines of ethnic criteria were coupled with a deliberate policy of destroying the 9,000-year-old history and culture of Cyprus and transforming the occupied part into another Turkish province. The policy focused on the deliberate change of historic names and the merciless destruction of churches and archaeological sites.

49. A solution to the Cyprus problem was possible provided that the Turkish Government and the leadership of the Turkish Cypriot community showed willingness to cooperate. It was imperative that international standards of human rights should be applied to the problem. The Government of Cyprus remained committed to a bicomunal, federal solution without the presence of foreign troops and settlers, that would safeguard the sovereignty, independence and territorial integrity of Cyprus and fully protect the human rights and fundamental freedoms of both Greek and Turkish Cypriots.

50. Mr. PLORUTTI (Argentina), referring to the situation of human rights in Cyprus, said that a just and appropriate solution should be found, without further delay and should be based on international law, especially the major international human rights instruments, and the implementation of all United Nations resolutions on Cyprus, particularly the right of refugees to return to their homes and property and the clarification of the fate of missing persons.

51. His delegation reiterated its support for the mission of good offices of the Secretary-General; that mission and the relevant report to the Security Council (S/23780) would provide the basis for a negotiated compromise between the parties. The conversations with the leaders of the two communities at United Nations Headquarters in New York between June and November 1992 for an overall framework agreement should continue over the next few months. He urged the parties to set aside some of their positions so that agreement could be reached as rapidly as possible.

52. His delegation considered that the guidelines set out in Security Council resolution 789 (1992) could well generate the necessary confidence for guiding the negotiations towards a solution to the Cyprus problem on the basis of international law. The status quo in Cyprus could not continue and his

delegation urged the parties, particularly the Turkish Cypriots, to embark on the new round of consultations in New York in a spirit of cooperation vis-à-vis the efforts being made by the Secretary-General.

53. In conclusion, his delegation reiterated its hope that the important changes taking place in other parts of the world would also have a decisive influence on a possible solution for Cyprus.

54. Mr. GWAM (Nigeria) said that his country attached great importance to the question of Cyprus and that as a member of the Non-Aligned Movement it would continue to contribute to advancing a peaceful, just and lasting solution to the problem.

55. A substantial intercommunity dialogue should be based on a number of crucial factors, such as compliance with all the relevant United Nations resolutions on Cyprus, the return of refugees to their homes in safety, the tracing of missing persons in Cyprus, the restoration and respect of human rights and fundamental freedoms of all Cypriots, including freedom of movement, freedom of settlement and the right to property, and the establishment of security zones for displaced persons within Cyprus and their protection under the responsibility of the United Nations Peace-Keeping Force in Cyprus.

56. Referring to the Secretary-General's report contained in document E/CN.4/1993/36, his delegation welcomed the fact that substantive discussions had taken place on territorial adjustments and hoped that the parties concerned would be willing to foresee an adjustment in line with the Secretary-General's suggestions embodied in the "Set of Ideas". Efforts had been made over the previous two years to prepare such a "Set of Ideas"; if similar progress could be made on the outstanding issues it contained, particularly territorial adjustment and displaced persons, an overall solution would be within reach. While affirming support for the good offices function of the Secretary-General, his delegation requested that he should intensify his efforts towards a durable solution.

57. On the issue of displaced persons, his delegation welcomed the acceptance by Mr. Denktash of the "principle of the right to return and the right to property". It wholeheartedly endorsed the Secretary-General's conclusion that the continuation of the status quo in respect of Cyprus was not a viable option. It believed that it was necessary for the Security Council to give serious consideration to alternative courses of action in case no agreement emerged from the forthcoming reconciliation talks in October 1993.

58. His delegation also agreed with the Security Council that, as a first step towards the withdrawal of non-Cypriot forces, the number of foreign troops in the Republic of Cyprus should be significantly reduced as well as its defence budget. It commended the United Nations peace-keeping activities and other roles in the Republic of Cyprus and expressed gratitude to the European Community, the International Committee of the Red Cross and the United Nations High Commissioner for Refugees for their efforts in Cyprus.

59. Mr. REDDY (India), calling for a sober rather than a strident debate on the item, reminded the assembly of the accountability of Governments - especially those born of democracy and based on the will of the people (such was the case in India) - where the exercise of human rights was concerned.

60. Nor was the issue the exclusive purview of any single country or group of countries. Promotion of the universal enjoyment of human rights depended on the exchange of views, experience and perspectives. Their implementation was a matter of collective responsibility.

61. As the experience of the developed countries of the West had shown, democracy provided the best political setting for the realization of human rights, while development provided the best economic setting. The right to develop was thus not only a human right in itself, but one of the best guarantees of securing other human rights, both individual and collective.

62. Democratic Governments in many parts of the globe were facing the new and complex problem of terrorism and extremism, which had emerged as a single most dangerous threat to the enjoyment of human rights and as a pernicious force that undermined the free functioning of democratic institutions, whether it be the electoral system, the press or the judiciary. Responsible news reporting could on occasion be eliminated or effectively gagged by terrorists, who mounted deliberate disinformation campaigns in its place: as an example, India itself had in the course of the present session been the target of baseless or exaggerated allegations concerning recent incidents in Jammu and Kashmir, primary responsibility for which lay with those who had launched the campaign of calumny. Respect for the rule of law and the dignity of the human being was the only possible foundation for truly effective safeguards against human rights violations. Massive and consistent pressure of world opinion must be brought to bear on terrorism and subversion, especially when abetted from abroad. Moreover, the human rights field should not be left open to the machinations of terrorists while those dealing with the threats they represented, courageously and in extremely difficult circumstances, were themselves falsely condemned for violations of human rights.

63. The Indian delegation had read with interest and sympathy the commendably frank report by the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/1993/46); it merely wished, largely on the basis of what was said therein about that country, to sound a note of caution concerning the Special Rapporteur's statement (para. 16) that it was sometimes very difficult to decide whether an allegation was credible, or whether it was politically or otherwise motivated, and (para. 17) that he transmitted all allegations received unless he had serious grounds to believe that the information provided was not credible. The disinformation capacity of terrorist groups or their supporters was in many cases sophisticated and powerful. India consequently believed that only those allegations should be transmitted that were, prima facie, valid. The report on India unfortunately contained sweeping generalizations. For instance, it reproduced allegations which spoke of "virtual impunity" for security forces; such allegations were surprising since there was no law on impunity. The observation that

violations continued to occur "on a large scale" in India was most unjust as it was based on 95 reported cases, many of which had been found to have been unsubstantiated and several of which were under inquiry. Where abuses were found to have occurred, remedial action was taken by punishing the guilty and paying compensation to the victims.

64. Turning to other parts of the world where the human rights situation was of serious concern, he said that despite a number of positive developments in what was undoubtedly a most delicate process, India remained disturbed by the persistence of the obnoxious practice of apartheid in South Africa; it viewed with similar concern and dismay the setback to the peace process in the Middle East as a result of the deportation of more than 400 Palestinians; it saw tragic irony in the fact that while the trend of the times was to promote human rights and democracy, the regime in Fiji was attempting to institutionalize racial discrimination through a Constitution that abridged the rights of a section of its population; it affirmed its solidarity with the people of Cyprus and fully supported the efforts of the Secretary-General to find a solution which would preserve the sovereignty, unity and territorial integrity of that country; and it shared the shock produced by the wholesale and flagrant violation of human rights in the territories of the former Yugoslavia and would urge the international community to respond urgently and effectively in promoting the rapid restoration of peace and security in the area.

65. In conclusion, he said that human rights must be centred on the person and the dignity of the individual. As the outcome of the present session of the Commission, what would be important was not resolutions adopted in acrimony but whether the right to live in dignity and freedom from want of ordinary human beings around the world had been promoted by the Commission's work.

66. Mr. FAROUQUE (Sri Lanka) remarked upon the perennality of the question of Cyprus on the Commission's agenda, adding that concern with new divisive tendencies both within and among States should not overshadow the fact that a just solution was long overdue. The non-aligned countries had, a few months ago, at the Summit in Jakarta, reiterated that an overall solution to the question of Cyprus, including the human rights dimensions, could only be achieved through respect for the sovereignty, independence, territorial integrity and unity of that country. The relevant resolutions of the Security Council and the General Assembly offered the best way forward in achieving an overall political and constitutional framework, while it was greatly to be hoped that the inter-communal dialogue shortly to be resumed between the parties, under the auspices of the Secretary-General, would facilitate a common understanding on further action.

67. Concerning the situation in East Timor, which was the subject of an interesting report in document E/CN.4/1993/54, his delegation was encouraged by the cooperative and positive attitude displayed by the Government of Indonesia in addressing the human rights concerns there and other related issues, within the framework of United Nations mechanisms. Governments of Indonesia and Portugal should be encouraged to continue to pursue an acceptable solution through dialogue and confidence-building measures, also under the auspices of the Secretary-General.

68. Mr. VENERA (Czech Republic), speaking for the first time as the representative of a new sovereign State, confirmed that its policy in the field of human rights would be very similar to that of its immediate predecessor, and would be assigned priority in the country's domestic and foreign affairs.

69. The Czech Republic, which warmly appreciated the activities of the Centre for Human Rights under difficult circumstances, set great store by the forthcoming World Conference on Human Rights, which should contribute to the process of constituting a new international order, notably by emphasizing the universality and indivisibility of all categories of human rights, by stressing the importance of enhanced implementation of international human rights standards, by reinforcing international human rights mechanisms and institutions, and not least by winning over the minds of people to the ideas of human rights through serious substantial work and clear and unsophisticated documents.

70. His delegation had hoped that, in view of its importance, the draft Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms would be ready for adoption at the present session of the Commission; but, despite the efforts of the Working Group, that did not seem likely. It hoped that the draft would be adopted at the Commission's fiftieth session.

71. Concerning the situation in Cyprus, he commended the role played by the United Nations in seeking a just, durable and bilaterally acceptable solution; to his mind, the best chance of success lay in the establishment of relations of mutual confidence between the two communities there.

72. The Czech Republic did not share the view of certain States that questions related to the protection of human rights were to be considered as their exclusive internal affairs. There were also countries that were unwilling to cooperate with some Commission mechanisms. One such country was Cuba, which refused to permit the Special Rapporteur to visit the country in order to fulfil his mandate. The Czech Republic was concerned at continuing violations of fundamental human rights and freedoms, such as freedom of expression, religion and thought and organized attacks on human rights defenders. It commended the efforts of the Special Rapporteur and fully supported his recommendations, as well as the extension of his mandate.

73. The Czech Republic was also especially concerned at the human rights situations in Iraq, Myanmar, Sudan, Somalia, Guatemala, Haiti, East Timor, Zaire and Afghanistan.

74. Flagrant and massive violations of human rights in a traditionally very sensitive part of Europe, the territory of the former Yugoslavia, were a cause of grave concern. After the bitter experiences of two world wars, it was unbelievable that such denials of basic human rights as the existence of detention camps, the mass rape of women, a policy of ethnic cleansing, as

well as other atrocities and inhuman treatment were occurring once again. The Czech Republic welcomed the decision of the Security Council to establish an international criminal tribunal to try cases involving violations of international humanitarian law.

75. Despite the situations he had evoked in his statement, he considered that, the human rights situation was improving in many parts of the world. Albeit complicated, the end of the present century was also a hopeful time; it was his delegation's firm belief and wish that positive developments in more countries would be apparent at the next session of the Commission.

76. Mr. ARTEAGA (Venezuela) said that the promising vista that had opened up with the end of super-Power confrontation had been marred by a resurgence of nationalism and by recent massive violations of human rights. Effective action by the Commission thus took on unprecedented urgency in the eyes not only of States but also of peoples and individuals.

77. Human rights were undoubtedly a sensitive issue for Governments, and it was inevitable that controversy would attend many of the Commission's debates. No country could claim to possess a monopoly of truth; nor, however, was there any valid pretext for Governments to evade their human rights responsibilities. While it could not achieve spectacular results, the Commission should at any rate be able to come up with viable decisions, particularly in the context of agenda item 12. It should thus do its utmost to promote consensus resolutions, so as to secure the cooperation of Governments and the better functioning of its monitoring mechanisms, especially in the run-up to the World Conference on Human Rights. Equally, however, if it was to reflect the full political, economic and social complexity of human rights issues worldwide, the Commission must properly address every item on its agenda, regardless of the objections raised by certain States. A partial view could lead only to partial solutions.

78. Venezuela saw the international struggle to protect human rights as closely linked to the defence of democracy. Though human rights might be abused even under democratic Governments, those rights would always be better protected in a system in which the three branches of power functioned independently and in which organizations for the defence of human rights could function without hindrance.

79. Human rights abuses arose in all countries, and Venezuela was no exception. His Government had made, and would continue to make, substantial efforts to promote those rights and strengthen the rule of law in compliance with its constitutional mandate. In its attempt to strengthen democracy, it was endeavouring to increase the number of judges and government procurators, strengthen the courts, train the forces of law and order in human rights, and overhaul the prison system. Those efforts formed part of Latin America's wider effort to safeguard and strengthen the region's new-found and hard-won democracy, against a background of severe economic crisis. Latin American countries must be guaranteed the economic and social conditions in which democracy and human rights could continue to flourish.

80. The trend towards the establishment of democratic pluralist regimes in the region had received a setback in Haiti by the military coup in September 1991. Since then the human rights situation in that country had worsened considerably, with its people subjected to a tyrannical regime of brutal repression. The international community must continue its efforts to restore the Government of President Aristide. His delegation fully endorsed the conclusions and recommendations contained in the report on the human rights situation in Haiti (E/CN.4/1993/47). Venezuela had worked in regional and supraregional forums to promote concrete measures to solve the crisis by political means. It thus welcomed the recent human rights mission to that country organized by the United Nations and the Organization of American States, the findings of which it awaited with interest. Meanwhile, the Commission must continue closely to monitor the situation in Haiti.

81. Mr. EL-KHAZEN (Observer for Lebanon) said that his country had broken the vicious circle of violence and chaos by restoring law and order to most of its territory. A large portion of southern Lebanon, however, was still controlled by Israel, which deployed its forces, alongside those of the de facto South Lebanon Army thereby proving that its leaders set no store by the Charter of the United Nations, other international instruments or the role and resolutions of the Commission.

82. The living conditions of Lebanese citizens in the area under occupation were deteriorating day by day as a result of Israel's brutal policy of repression, which contravened the principles set forth in the Fourth Geneva Convention, the Hague Convention of 1907 and the Universal Declaration of Human Rights, as well as resolutions of the General Assembly, of the Security Council, and of the Commission. That policy was embodied in actions such as the random and continuous shelling, by tanks and from the air, of camps, villages, schools and places of worship since July 1992. Air raids had also struck at the northern part of the zone in which United Nations forces were deployed. The Israeli and de facto artillery had fired over 6,000 rounds into the area between July 1992 and January 1993. In response to those actions, the Lebanese Government had submitted several complaints to the Security Council, the most recent following Israel's bombardment of dozens of villages using helicopters, long-range artillery and tank fire, resulting in considerable damage to property and loss of life.

83. Further instances of repression included deportations, seizures of property, destruction of crops and homes, and arbitrary arrests and detention. Young people had been compelled to enrol in the South Lebanon Army or forbidden to leave the Israeli-occupied zone under threat that their families' homes would be demolished. Israel had hampered the activities of the Lebanese authorities, had prevented the Lebanese and United Nations armed forces from fulfilling their mission, and had obstructed the humanitarian activities of the International Committee of the Red Cross, in disregard of Commission on Human Rights resolution 1992/2.

84. Those actions had culminated in the extraordinary decision to deport 415 Palestinian civilians to its occupied territories in southern Lebanon, and to insist that Lebanon should bear the burden of those deportations - a further violation of Lebanese sovereignty, and of article 49 of the Fourth Geneva Convention. That decision constituted an arbitrary

collective punishment, and had led to the adoption of Security Council resolution 799 (1993), with which, however, Israel was as usual refusing to comply.

85. Lebanon's position was that resolution 799 (1993) must be implemented without delay. It had refused any contact with the deportees, or the passage of assistance to them, as a reaffirmation that Israel must bear full responsibility for its crime and respect international legality. Israel could not justify its violations by invoking its right to respond to attacks by resistance forces, since the actions of the latter were a natural result of despair caused by the occupation. Resistance, a legitimate right recognized by the Charter of the United Nations, must not be confused with terrorism, and must not be denied to the Lebanese people. Israel must be compelled to comply with international law and to implement the pertinent Security Council resolutions. The International Community must assist Lebanon in recovering its full territorial unity and sovereignty. To that end, Lebanon would submit a draft resolution to the Commission.

86. Mr. PAK Dok Hun (Observer for the Democratic People's Republic of Korea), speaking in exercise of the right of reply, said that in a statement made the previous day on behalf of the Member States of the European Community, the observer for Denmark had made a baseless allegation against his country. That statement appeared to be devoid of sincerity. If the speaker had had any genuine interest in improving human rights throughout the world, he would have expressed some concern at the resurgence of racism and xenophobia in his own part of the world. In view of the observer's total silence on that matter, there was no need for any further comment on his allegation. The fact of the matter was that fundamental rights and freedoms in the Democratic People's Republic of Korea were firmly protected by the Constitution and the pertinent laws. Its people were now the masters of the State and society, and the inviolability of their person and rights were fully guaranteed.

87. Mr. ALFONSO MARTINEZ (Cuba), speaking in exercise of the right of reply, said that earlier in the meeting, the delegations of Finland and the Czech Republic had commented on the human rights situation in Cuba, basing themselves on the most recent report by the Special Rapporteur (E/CN.4/1993/39) which, as his own delegation had already pointed out, was characterized by selectivity and lack of objectivity. With regard to the comments made by the delegation of Finland, he could well imagine the surprised reaction of the thousands of Finnish unemployed who were currently denied the right to work, on reading reports in the Finnish press of the remarks made by the Finnish delegation in Geneva regarding the situation in Cuba. Perhaps those unemployed workers might feel that the Finnish delegation's time would more profitably be spent in accounting to the Commission for the situation regarding fundamental rights in Finland.

88. The case of the Czech Republic was more interesting. On 23 February 1993 a quality Geneva newspaper had published the results of a poll conducted in various countries of Central Europe, according to which around 68 per cent of the population of the Czech Republic were profoundly dissatisfied with the recent changes in their country, considering that they had been totally excluded from participation in the political life of the Republic. What would be the effect on that 68 per cent of the population when they learned that

their delegation was apparently more concerned with the situation in a country on the other side of the Atlantic than with the situation in their own country? He could not but recall the comments of some members of the Czech Parliament who, during the last presidential election, had remarked that with the coming to power of the present Government the country had split into two, and that perhaps, at the next presidential election, it would disappear altogether.

The meeting rose at 9.55 p.m.